

**From:** Palomaki, Ashley  
**To:** ["Timothy A. McKeever"](#)  
**Subject:** RE: FOIA Request EPA-R10-2016-008731  
**Date:** Wednesday, October 12, 2016 4:22:00 PM

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Mr. McKeever –

80 of the documents that we recently processed contain the search terms you identified and are not stamped confidential and are therefore responsive to your FOIA request, as modified. In total, we will be referring 4,271 documents to the Department of Justice. I am working on a final letter to you and a referral letter to DOJ, both of which should be finished within the next couple of days.

Please let me know if you have any questions.

Best,

Ashley

**Ashley Palomaki**

Assistant Regional Counsel  
U.S. EPA Region 10 Office of Regional Counsel  
1200 Sixth Avenue, Suite 900, ORC-113  
Seattle, WA 98101  
206-553-8582

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**From:** Palomaki, Ashley  
**Sent:** Tuesday, October 11, 2016 4:42 PM  
**To:** 'Timothy A. McKeever' <Tmckeever@hwb-law.com>  
**Subject:** RE: FOIA Request EPA-R10-2016-008731

Mr. McKeever –

Thank you for your email. We got the approximately 170 docs processed so that they are text searchable. I should have an update tomorrow as to how many of them hit on the key words and are not stamped confidential. We are also preparing the referral letters.

I will let you know if I have any questions.

Best,

Ashley

**Ashley Palomaki**

Assistant Regional Counsel  
U.S. EPA Region 10 Office of Regional Counsel  
1200 Sixth Avenue, Suite 900, ORC-113

Seattle, WA 98101  
206-553-8582

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**From:** Timothy A. McKeever [<mailto:Tmckeever@hwb-law.com>]  
**Sent:** Wednesday, October 05, 2016 1:54 PM  
**To:** Palomaki, Ashley <[Palomaki.Ashley@epa.gov](mailto:Palomaki.Ashley@epa.gov)>  
**Cc:** Tina M. Hardwick <[Thardwick@hwb-law.com](mailto:Thardwick@hwb-law.com)>; Stacey C. Stone <[SStone@hwb-law.com](mailto:SStone@hwb-law.com)>; Lindsey Martin <[LMartin@hwb-law.com](mailto:LMartin@hwb-law.com)>; Shaunalee Nichols <[SNichols@hwb-law.com](mailto:SNichols@hwb-law.com)>  
**Subject:** RE: FOIA Request EPA-R10-2016-008731

Dear Ms. Palomaki,

I wanted to follow up on our conversation on September 22 concerning the above request.

It is our understanding that upon completion of the key word search we submitted, approximately 6500 documents have been identified as containing those key words. Of that total about 2300 are marked 'confidential' pursuant to the protective order in the Pebble v. EPA case and therefore cannot be produced. The remaining approximately 4191 records are not marked confidential.

If we maintained our original search request, the EPA would want to conduct a further review to determine if the 4191 document are responsive to our original request. That additional review would cost about \$3300. Upon completion of that review the EPA would refer the request and the documents to the Dept. of Justice for its review as the 'source' agency. However if we modify our original request that second review by the EPA would not be necessary but the DOJ review would still be required.

In addition not all the original records were text readable. EPA has identified 170 documents or so which are not and would charge \$35 to convert those to text readable and to scan them to see if they are responsive to our key word search.

We have considered the options and would like to do the following

- a) Please amend our initial request and substitute the key word list we sent in place of the original request i.e. we no longer wish to get all records produced to EPA/DOJ which were provided by Pebble in response to Judge Holland's order—we simply want all records from the materials produced by Pebble which contain the key words listed in our key word limitation request. We understand that this modification would result in about 4191 documents being found responsive and will eliminate the need for further review by the EPA to determine if these documents are responsive to our initial broad request.
- b) In addition we request that EPA render the approximately 170 documents identified as possibly responsive to our key word search but which are not text scannable into a scannable format and to scan them using the key words to determine if any of those documents are responsive to our amended key word request and if so to produce them. We understand this cost will be about \$35.00.
- c) We further understand that when the EPA has completed its review of the 170 documents all documents covered by our amended narrowed request must be reviewed by the Department of Justice to make sure they do not contain other confidential

information not covered by the EPA-Pebble protective order.  
Hopefully the above is clear enough to allow the EPA to finish up with the 170 documents and refer the documents to the DOJ for its final review. If you need further clarification please let me know.

Thank you.

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**From:** Palomaki, Ashley [<mailto:Palomaki.Ashley@epa.gov>]  
**Sent:** Thursday, September 22, 2016 9:08 AM  
**To:** Timothy A. McKeever  
**Subject:** RE: FOIA Request EPA-R10-2016-008731

Sounds great. Talk to you then.

**Ashley Palomaki**

Assistant Regional Counsel  
U.S. EPA Region 10 Office of Regional Counsel  
1200 Sixth Avenue, Suite 900, ORC-113  
Seattle, WA 98101  
206-553-8582

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**From:** Timothy A. McKeever [<mailto:Tmckeever@hwb-law.com>]  
**Sent:** Thursday, September 22, 2016 9:08 AM  
**To:** Palomaki, Ashley <[Palomaki.Ashley@epa.gov](mailto:Palomaki.Ashley@epa.gov)>  
**Subject:** Re: FOIA Request EPA-R10-2016-008731

to confirm i will call you at 10:15 today.

Sent from my iPad

On Sep 21, 2016, at 4:27 PM, Palomaki, Ashley <[Palomaki.Ashley@epa.gov](mailto:Palomaki.Ashley@epa.gov)> wrote:

I can make 9:30 work if 10:15 doesn't work for you.

Thanks,

Ashley

**Ashley Palomaki**

Assistant Regional Counsel  
U.S. EPA Region 10 Office of Regional Counsel  
1200 Sixth Avenue, Suite 900, ORC-113  
Seattle, WA 98101  
206-553-8582

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**From:** Palomaki, Ashley  
**Sent:** Wednesday, September 21, 2016 12:54 PM  
**To:** 'Timothy A. McKeever' <[Tmckeever@hwb-law.com](mailto:Tmckeever@hwb-law.com)>  
**Subject:** RE: FOIA Request EPA-R10-2016-008731

Does 10:15 work? Thanks.

**Ashley Palomaki**

Assistant Regional Counsel  
U.S. EPA Region 10 Office of Regional Counsel  
1200 Sixth Avenue, Suite 900, ORC-113  
Seattle, WA 98101  
206-553-8582

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**From:** Timothy A. McKeever [<mailto:Tmckeever@hwb-law.com>]  
**Sent:** Wednesday, September 21, 2016 12:46 PM  
**To:** Palomaki, Ashley <[Palomaki.Ashley@epa.gov](mailto:Palomaki.Ashley@epa.gov)>  
**Subject:** Re: FOIA Request EPA-R10-2016-008731

Tomorrow would work for me. Can I call you at about 9:30? If not please suggest another time.

Sent from my iPhone

On Sep 21, 2016, at 12:25 PM, Palomaki, Ashley <[Palomaki.Ashley@epa.gov](mailto:Palomaki.Ashley@epa.gov)> wrote:

Mr. McKeever,

EPA has been working on this FOIA and is ready to discuss next steps. Do you have some time to chat with me? I'm pretty booked this afternoon but have a lot of availability tomorrow.

Best,

Ashley

**Ashley Palomaki**

Assistant Regional Counsel  
U.S. EPA Region 10 Office of Regional Counsel  
1200 Sixth Avenue, Suite 900, ORC-113  
Seattle, WA 98101  
206-553-8582

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**From:** Palomaki, Ashley

**Sent:** Friday, September 16, 2016 12:10 PM  
**To:** 'Timothy A. McKeever' <[Tmckeever@hwb-law.com](mailto:Tmckeever@hwb-law.com)>  
**Cc:** 'Stacey C. Stone' <[SStone@hwb-law.com](mailto:SStone@hwb-law.com)>; 'Tina M. Hardwick' <[Thardwick@hwb-law.com](mailto:Thardwick@hwb-law.com)>  
**Subject:** RE: FOIA Request EPA-R10-2016-008731

Mr. McKeever,

I just wanted to provide you with a quick update. We are continuing to work on this and expect to be able to provide you with an initial fee estimate and additional information early next week.

Have a good weekend.

Ashley

**Ashley Palomaki**

Assistant Regional Counsel  
U.S. EPA Region 10 Office of Regional Counsel  
1200 Sixth Avenue, Suite 900, ORC-113  
Seattle, WA 98101  
206-553-8582

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**From:** Palomaki, Ashley  
**Sent:** Wednesday, September 07, 2016 3:45 PM  
**To:** Timothy A. McKeever <[Tmckeever@hwb-law.com](mailto:Tmckeever@hwb-law.com)>  
**Cc:** Stacey C. Stone <[SStone@hwb-law.com](mailto:SStone@hwb-law.com)>; Tina M. Hardwick <[Thardwick@hwb-law.com](mailto:Thardwick@hwb-law.com)>  
**Subject:** RE: FOIA Request EPA-R10-2016-008731

Mr. McKeever,

Thank you for your email. I apologize for the delayed response, but the Agency has been working on this. We ran a search within the documents for the keywords you listed below and the initial search returned approximately 6,500 documents, which is a substantial reduction. We are currently working to ensure that this is a full and accurate count. Once we have done so, I will be in touch with a fee estimate and a request for an assurance of payment. Please feel free to get in touch if you have questions.

Best,

Ashley

**Ashley Palomaki**

Assistant Regional Counsel  
U.S. EPA Region 10 Office of Regional Counsel  
1200 Sixth Avenue, Suite 900, ORC-113  
Seattle, WA 98101  
206-553-8582

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**From:** Timothy A. McKeever [<mailto:Tmckeever@hwb-law.com>]  
**Sent:** Wednesday, September 07, 2016 1:59 PM  
**To:** Palomaki, Ashley <[Palomaki.Ashley@epa.gov](mailto:Palomaki.Ashley@epa.gov)>  
**Cc:** Stacey C. Stone <[SStone@hwb-law.com](mailto:SStone@hwb-law.com)>; Tina M. Hardwick  
<[Thardwick@hwb-law.com](mailto:Thardwick@hwb-law.com)>  
**Subject:** RE: FOIA Request EPA-R10-2016-008731

Dear Ms. Palomaki,

Below is another copy of a modification of the above FOIA request. I had not gotten any acknowledgement that you received the original and so I am sending this again.

Please let me know if you have any questions.

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**From:** Timothy A. McKeever  
**Sent:** Tuesday, August 30, 2016 3:21 PM  
**To:** 'Palomaki, Ashley'  
**Cc:** Stacey C. Stone; Tina M. Hardwick  
**Subject:** RE: FOIA Request EPA-R10-2016-008731

Dear Ms. Palomaki,

We hereby request that our pending FOIA request (as shown above) be modified so that we obtain those documents responsive to the original request which include any of the following key words and phrases:

“Lake Clark Air”  
LCA  
Tanalian  
“The Farm Lodge”  
Farm  
“E & M Enterprises”  
“E & M”  
“E&M”  
Grams  
“Grams Café & B&B”  
“Iliamna Development Corporation”  
IDC  
“Iliamna Natives Limited”  
INL

Anglo  
"Defend Your Rights"  
DYR  
SOS  
Greg Anelon  
"Jade North"  
"Lake and Peninsula Borough"  
"L&P"  
"L & P"  
LP  
"Lake and Peninsula School District"  
"School District"  
Borough  
LPBSD  
"Lake and Pen"  
Myrtle Anelon  
Anelon  
Nuna  
"Truth About Pebble"  
TAP  
Glen Alsworth  
Alsworth  
"Lake and Peninsula Airlines"  
LPA  
"Lorene Anelon"  
Lorene  
Glen

Our request for modification is based on the understanding that our original request would have involved many thousands of pages and costs of many thousands of dollars. It is our hope that the modified request will reduce the cost substantially. Our modification assumes that asking that the documents produced be limited to the above key words or phrases, the response to our request can be done for much less cost. Please advise me if that is not correct.

I understand that the EPA staff will initially determine the cost of searching using the more limited scope and will advise us of the projected cost of that search and seek payment assurance. Then you will review the more limited set of documents to determine what is not subject to the confidentiality provisions of the protective order and then you would produce those documents while advising us of the number of pages or documents which were responsive but which you feel cannot be produced due to the protective order.

Please let me know if my understanding of any of the above is incorrect.

Thank you.

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**From:** Palomaki, Ashley [<mailto:Palomaki.Ashley@epa.gov>]  
**Sent:** Monday, August 29, 2016 10:43 AM  
**To:** Timothy A. McKeever  
**Subject:** RE: FOIA Request EPA-R10-2016-008731

Mr. McKeever,

I'm just following up to see if you and your clients have made any decisions about the FOIA referenced in the subject line.

Best,

Ashley

**Ashley Palomaki**

Assistant Regional Counsel  
U.S. EPA Region 10 Office of Regional Counsel  
1200 Sixth Avenue, Suite 900, ORC-113  
Seattle, WA 98101  
206-553-8582

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**From:** Palomaki, Ashley  
**Sent:** Monday, August 15, 2016 8:11 AM  
**To:** Timothy A. McKeever <[Tmckeever@hwb-law.com](mailto:Tmckeever@hwb-law.com)>  
**Subject:** RE: FOIA Request EPA-R10-2016-008731

Tim,

Answers to your questions are below.

Best,

Ashley

**Ashley Palomaki**

Assistant Regional Counsel  
U.S. EPA Region 10 Office of Regional Counsel  
1200 Sixth Avenue, Suite 900, ORC-113  
Seattle, WA 98101  
206-553-8582

---

**From:** Timothy A. McKeever [<mailto:Tmckeever@hwb-law.com>]  
**Sent:** Friday, August 12, 2016 12:05 PM  
**To:** Palomaki, Ashley <[Palomaki.Ashley@epa.gov](mailto:Palomaki.Ashley@epa.gov)>  
**Subject:** RE: FOIA Request EPA-R10-2016-008731

Follow up questions—if we decide to narrow our request could we get another rough estimate of the cost of the narrowed request?

Yes – The government would not proceed without providing you an



estimate for search and review and then getting a fee assurance from you.

Would we have to start all over with a narrowed request or would we simply proceed on this pending request as narrowed.

You would not have to start all over with a narrowed request. When and if you narrow the request, I would follow up with a letter confirming the new scope of the request. That letter would be uploaded to FOIAonline so that the new scope is documented.

Once you process a narrowed request would you normally tell us how many pages or documents have been identified as responsive? And in this case would you be in a position to tell us how many of the responsive documents are marked 'confidential' and how many are not?

Yes – For a “normal” FOIA, all responsive documents are accounted for. They are accounted for because they are released in full or in part to the requester or documented on a privilege log if they are withheld in full. Here, the government would provide the number of documents stamped confidential that it is unable to release because of the second amended protective order. Documents that have not been stamped confidential would be accounted for because they would either be released to you in full or in part or documented on a privilege log if they are withheld in full due to an applicable FOIA exemption.

This would help us decide how to proceed.

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**From:** Palomaki, Ashley [<mailto:Palomaki.Ashley@epa.gov>]  
**Sent:** Friday, August 12, 2016 11:27 AM  
**To:** Timothy A. McKeever  
**Subject:** RE: FOIA Request EPA-R10-2016-008731

Mr. McKeever,

Per our conversation this morning, a copy of the second amended protective order is attached.

Best,

Ashley

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**From:** Timothy A. McKeever [<mailto:Tmckeever@hwb-law.com>]  
**Sent:** Thursday, August 11, 2016 4:56 PM  
**To:** Palomaki, Ashley  
**Subject:** Re: FOIA Request EPA-R10-2016-008731

Would 9:30 Seattle time work?

Sent from my iPhone

On Aug 11, 2016, at 2:46 PM, Palomaki, Ashley  
<[Palomaki.Ashley@epa.gov](mailto:Palomaki.Ashley@epa.gov)> wrote:

Mr. McKeever,

DOJ and I are available at 12pm eastern (9 am pacific)  
tomorrow. Are you in Seattle or Anchorage? This is a little  
early Anchorage time. If this does not work for you, just let  
me know, and we will schedule another time.

Once we have a time scheduled, I will send a conference line  
around.

Best,

Ashley

**Ashley Palomaki**

Assistant Regional Counsel  
U.S. EPA Region 10 Office of Regional Counsel  
1200 Sixth Avenue, Suite 900, ORC-113  
Seattle, WA 98101  
206-553-8582

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**From:** Timothy A. McKeever [<mailto:Tmckeever@hwb-law.com>]

**Sent:** Thursday, August 11, 2016 2:20 PM

**To:** Palomaki, Ashley <[Palomaki.Ashley@epa.gov](mailto:Palomaki.Ashley@epa.gov)>

**Subject:** Re: FOIA Request EPA-R10-2016-008731

Dear Ms. Palomaki,

I am happy to meet with you to discuss this issue. I could do  
it tomorrow, or Monday or Tuesday of next week or  
anytime after August 25th. Please let me know what work  
for you and the DOJ atty.

Sent from my iPhone

On Aug 11, 2016, at 12:44 PM, Palomaki, Ashley  
<[Palomaki.Ashley@epa.gov](mailto:Palomaki.Ashley@epa.gov)> wrote:

Mr. McKeever,

The EPA has received your FOIA request, which seeks the following:

Copies of all documents produced by Pebble Limited Partnership and/or its parent company, Northern Dynasty Minerals Ltd. and/or any other entity, to the US Environmental Protection Agency and/or the US Department of Justice in response to Requests for Production 19-21, 23, 25-26 in Defendants' First Set of Requests for Production of Documents at 6, Exhibit 1, Defendants' Motion to Compel [etc.], Docket No. 209, in the case entitled Pebble Limited Partnership vs. Environmental Protection Agency, et. al.; Case No 3:14-cv-0171-HRH in the United States District Court for the District of Alaska. This request extends to all records or documents produced in response to the Order dated May 5, 2016 relating to the Motion to Compel in that case.(attached) The documents sought are those documents discussed in the paragraph beginning on page 10 of the attached Order which are ordered to be produced on pages 11 and 12 of the same.

I would like to set a time to discuss this request with you and a Department of Justice attorney that works on the case entitled Pebble Limited Partnership vs. Environmental Protection Agency, et. al.; Case No 3:14-cv-0171-HRH. We would like to better understand your request, see if you would like to narrow your request in light of the fee waiver denial or for any other reason, and to explain the potential implications of the amended protective order and other possible FOIA exemptions to your request.

The processing clock is stopped for your FOIA request until we receive your clarification or modification.

Please respond within ten calendar days from

the date of this letter to arrange a time to discuss your request. If we do not receive a response from you within this time period, we will consider your request to be voluntarily withdrawn. Once the request is clarified and we receive a written assurance of payment for the full processing amount, we will continue processing your FOIA request and provide you with an updated estimated timeframe for completion.

I look forward to hearing from you.

Ashley

**Ashley Palomaki**

Assistant Regional Counsel  
U.S. EPA Region 10 Office of Regional Counsel  
1200 Sixth Avenue, Suite 900, ORC-113  
Seattle, WA 98101  
206-553-8582

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